

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STEPHEN P. KOONS,

Plaintiff,

v.

XL INSURANCE AMERICA, INC., and
GREENWICH INSURANCE COMPANY,

Defendants.

CIVIL ACTION NO. 11-2956

ORDER

AND NOW, this 29th day of May, 2012, upon careful consideration of the cross-motions for summary judgment filed by plaintiff Stephen P. Koons (document no. 24) and by defendants XL Insurance America, Inc. (“XL”), and Greenwich Insurance Company (“Greenwich”) (document no. 23), as well as the responses and replies thereto, **IT IS HEREBY ORDERED** as follows:

1. XL and Greenwich’s motion for summary judgment as to count I of Koons’s complaint and as to their counterclaims against Koons is **GRANTED** and judgment is **ENTERED** in favor of XL and Greenwich and against Koons as to these claims. The court **DECLARES** that neither XL nor Greenwich has a duty to defend or indemnify Koons in the action entitled *Samantha L. Andre v. Stephen P. Koons d/b/a Miller Concrete et al.*, No. 2011-06272, in the Court of Common Pleas of Montgomery County. Koons’s motion for partial summary judgment as to his claim against XL in count I is **DENIED**.

2. XL and Greenwich's motion for summary judgment as to count II of Koons's complaint is **GRANTED** and judgment is **ENTERED** in favor of XL and Greenwich and against Koons as to this count.

3. The parties shall submit their proposals regarding the disposition of the bad-faith claim in count III of Koons's complaint by letter within 15 days of the date of this order.

/s/William H. Yohn Jr.

William H. Yohn Jr., Judge